

JUDGE'S COPY

copy (9)

KANE/MS

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CLARENCE FRANKLIN  
INMATE NO. CU-0660  
SCI - CAMP HILL  
P.O. BOX 200  
CAMP HILL, PA. 17001-0200  
PLAINTIFF

Vs.

PENNSYLVANIA DEPARTMENT OF  
CORRECTIONS  
2520 LISBURN ROAD  
CAMP HILL, PA. 17001-8837  
DEFENDANT

AND

MARTIN F. HORN, IN HIS CAPACITY  
AS SECRETARY OF THE  
PENNSYLVANIA DEPARTMENT OF  
CORRECTIONS, 2520 LISBURN ROAD  
CAMP HILL, PA. 17001-0598  
DEFENDANT

AND

KENNETH D. KYLER, IN HIS  
CAPACITY AS SECRETARY OF THE  
STATE CORRECTIONAL  
INSTITUTION AT CAMP HILL  
2520 LISBURN ROAD  
CAMP HILL, PA. 17001-8837  
DEFENDANT

AND

CORRECTIONAL OFFICER ROBERT VIA:  
INDIVIDUALLY AND AS A  
CORRECTIONAL OFFICER OF THE  
STATE CORRECTIONAL  
INSTITUTION AT CAMP HILL  
2520 LISBURN ROAD  
CAMP HILL, PA. 17001-8837  
DEFENDANT  
JOINTLY AND SEVERALLY

CIVIL ACTION NO. 1:CV 00-0238

FILED  
HARRISBURG, PA

MAY 01 2000

MARY E. D'ANDREA, CLERK  
Per Deputy Clerk

**ORDER**

**AND NOW** this \_\_\_\_\_ Day of \_\_\_\_\_, 2000, upon consideration of Plaintiff, Mr. Clarence Franklin's **APPLICATION FOR JUDGMENT BY DEFAULT**, pursuant to Federal Rule of Civil Procedure 55 (b)(2), and upon this Court's finding that all Defendants having failed to plead or otherwise defend within Twenty (20) days upon service of the Complaint, it is hereby **ORDERED AND DECREED** that Plaintiff's Application is hereby **GRANTED**. It is furthered **ORDERED THAT**: a hearing be held on \_\_\_\_\_ day, \_\_\_\_\_, 2000, at \_\_\_\_\_ m. in Courtroom \_\_\_\_\_, to determine the amount of damages to be assessed against the Defendants.

**BY THE COURT:**

---

**J.-**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CLARENCE FRANKLIN  
INMATE NO. CU-0660  
SCI-CAMP HILL  
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HARRISBURG, PA

MAY 01 2000

MARY E. D'ANDREA, CLERK  
Per gls  
Deputy Clerk

**PLAINTIFF'S APPLICATION FOR JUDGMENT BY DEFAULT**  
**PURSUANT TO FEDERAL RULE CIVIL PROCEDURE**  
**(F.R.C. P. 55 (b)(2))**

**TO THE HONORABLE YVETTE KANE:**

On behalf of Plaintiff, Clarence Franklin, by and through his undersigned counsel, Angelo L. Cameron, Esquire, hereby applies to this Honorable Court for Judgment By Default to be Entered, and avers as follows:

1. Plaintiff commenced the instant Civil Rights action on February 8, 2000, in which he sustained personal, and bodily injuries to his right hand and the severing of his right ring finger.

(A true and correct copy of the Complaint is attached as Exhibit "A".)

2. Said injuries were the result of actions committed by a Correctional Officer Via, employed by the Pennsylvania Department of Corrections, at State Correctional Institution - Camp Hill, Pennsylvania.

3. Said Complaint was served on all Defendants, The Pennsylvania Department of Corrections, Mr. Martin F. Horn, In His Capacity as Secretary of The Pennsylvania Department of Corrections, Mr. Kenneth D. Kyler, In His Capacity as Secretary of the State Correctional Institution at Camp Hill, and Correctional Officer Via, Individually, and as a Correctional Officer at State Correctional Institution - Camp Hill.

4. The Returns of Service of Process were filed with the Clerk of Court on March 23, 2000, affirming that all captioned Defendants were served. Also, the Attorney General for the Commonwealth of Pennsylvania was served with the Complaint. (True and correct copies of the Certificates of Service are attached as Exhibits "B-1,2,3,4 and 5".)

5. As of this writing, all Defendants have failed to plead or otherwise defend within the

Twenty (20) days.


6. Plaintiff's claim is not for a sum certain, or for a sum which can by computation be made certain.

7. Plaintiff prays in his Ad Damnum clause for compensatory damages in a sum of money in excess of One-Hundred-Fifty-Thousand-Dollars (\$150, 000.00), punitive damages, Plaintiff's costs and expenses, reasonable attorney's fees, and any other further relief as may be just.

8. Plaintiff submits, that if, in order to enable this Honorable Court to Enter Judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence, or to make an investigation of any other matter, this Honorable Court may conduct such hearings or order such references as it deems necessary and proper, and shall accord a right of trial by jury to the parties when and as required by any statute of the United States.

**WHEREFORE**, Plaintiff, Mr. Clarence Franklin, prays that this Honorable Court grant his application for **Judgment By Default**, for the above-cited reasons, and that the relief requested be granted in his favor as against all Defendants.

Respectfully submitted,



Angelo L. Cameron, Esquire

FINCOURT B. SHELTON & ASSOC., P.C.

6 NORTH 9<sup>TH</sup> STREET, SUITE 201

DARBY, PENNSYLVANIA 19023

(610) 532-5550

Date: April 27, 2000

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CLARENCE FRANKLIN  
INMATE NO. CU-0660  
SCI-CAMP HILL  
P. O. BOX 200  
CAMP HILL, PA 17001-0200

PLAINTIFF

vs.

PENNSYLVANIA DEPARTMENT OF  
CORRECTIONS  
2520 LISBURN ROAD  
CAMP HILL, PA. 17001-8837

DEFENDANT

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MARTIN F. HORN, IN HIS CAPACITY AS  
SECRETARY OF THE  
PENNSYLVANIA DEPARTMENT OF  
CORRECTIONS, 2520 LISBURN ROAD,  
CAMP HILL, PA. 17001-0598

DEFENDANT

and

KENNETH D. KYLER, IN HIS CAPACITY  
AS SECRETARY OF THE  
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AT CAMP HILL  
2520 LISBURN ROAD  
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CORRECTIONAL OFFICER ROBERT VIA,  
INDIVIDUALLY AND AS A  
CORRECTIONAL OFFICER OF THE  
STATE CORRECTIONAL INSTITUTION  
AT CAMP HILL  
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CAMP HILL, PA. 17001-8837

DEFENDANT

JOINTLY AND SEVERALLY

1 : CV 00-0238

CIVIL  
ACTION

NO. \_\_\_\_\_

FILED  
HARRISBURG, PA

FEB 8 2000

MAURICE D'ANDREA, CLERK  
Deputy Clerk

PLAINTIFF'S  
EXHIBIT

A

### JURISDICTION AND VENUE

1. This action is brought pursuant to 42 U.S.C. Section 1983, and the Fifth, Eighth and Fourteenth Amendments to the United States Constitution. Jurisdiction is founded on 28 U.S.C. Section 1331 and 1343 (a) (3) and (4).

2. Plaintiff further invokes the pendent jurisdiction of the Court to hear and decide claims arising under state law.

3. The amount in controversy exceeds \$150,000.00 exclusive of interest and costs.

4. Venue is placed in this district because it is where all the parties reside and where the events complained of occurred.

5. State law claims are joined herewith under principles of pendent and supplemental jurisdiction and 28 U.S.C. Section 1367.

### PARTIES

6. Plaintiff, Clarence Franklin (hereinafter referred to as "Plaintiff"), is a citizen of the United States, a resident of the Commonwealth of Pennsylvania, and an inmate at State Correctional Institution, Camp Hill, Pennsylvania.

7. Defendant, the Pennsylvania Department of Corrections, is a department of the Executive branch whose principal duty is the care, custody and control of inmates.

8. Defendant, Martin F. Horn (hereinafter referred to as Defendant "Horn"), is Secretary of the Pennsylvania Department of Corrections and was at all times pertinent to the allegations of this complaint, and at all times material hereto responsible for the training, suspension, hiring, discipline and conduct of Defendant Robert Via, Correctional Officer, as is more specifically set forth hereinafter. He is responsible by law for enforcing the regulations of the Department of Corrections and for ensuring that correctional officers of the Commonwealth of Pennsylvania obey the laws of the Commonwealth of Pennsylvania, and the United States. He is sued in his official capacity.

9. Defendant, Kenneth D. Kyler (hereinafter referred to as Defendant "Kyler"), of the State Correctional Institution at Camp Hill, Pennsylvania, and was at all times pertinent to the allegations of this complaint, and at all times material hereto responsible for the training, suspension, hiring, discipline and conduct of Defendant Robert Via, Correctional Officer, as is more specifically set forth hereinafter. He is responsible by law for enforcing the regulations of the Department of Corrections, at Camp Hill, and for ensuring that Camp Hill correctional officers obey the laws of the Commonwealth of Pennsylvania, and the United States. He is sued in his official capacity.

10. Defendant, Correctional Officer Robert Via (hereinafter referred to as Defendant "Via"), was at all times material to the allegations in this complaint employed by the Pennsylvania Department of Corrections as a correctional officer. He is sued individually and in his official capacity.



11. At all times relevant hereto, and in all their actions described herein, Defendants were acting under color of law and pursuant to their apparent authority as Secretary, Superintendent, and Correctional Officer employed by the Pennsylvania Department of Corrections, respectively.

COUNT I  
DEPRIVATION OF CIVIL RIGHTS TITLE 42 U.S.C. SECTION 1983

12. Plaintiff incorporates by reference the averments contained in paragraphs 1 through 11, inclusive, as fully as though the same were herein set forth at length.

13. On or about February 20, 1998, Plaintiff was an inmate at the State Correctional Institution at Camp Hill, Pennsylvania.

14. Plaintiff was in his cell putting on his clothes to go into the yard area.

15. Defendant Via was immediately outside of the Plaintiff's cell door, and he had Plaintiff's socks, at which time Plaintiff requested them.

16. Defendant Via placed Plaintiff's socks and shoes on his food panel within the cell door.

17. Plaintiff reached for these items with his right hand, and Defendant Via violently slammed the food panel against Plaintiff's hand, totally severing Plaintiff's ring finger.

18. Plaintiff's severed ring finger laid outside of his cell door for approximately one hour.

19. Plaintiff did not receive medical attention or treatment for approximately one hour.

20. Plaintiff remained in his cell for approximately one hour in a state of extreme pain, as well as mental anguish as a result of Defendant Via's actions.

21. Defendant Via, in a wanton and reckless manner, and without justification, wilfully, maliciously and intentionally assaulted and battered Plaintiff causing serious bodily injury to Plaintiff.

22. As a result of the foregoing, Defendant Via callously disregarded, was deliberately indifferent to and violated the rights of Plaintiff which are secured by the laws and Constitution of the United States, in particular 42 U.S.C. Section 1983, and the Fifth, Eighth, and Fourteenth Amendments and his rights under the Constitution of the Commonwealth of Pennsylvania.

23. As a direct and proximate result of the above described unlawful acts of Defendant Via, all committed under color of his authority as a correctional officer of the Pennsylvania Department of Corrections, and while acting in that capacity, Plaintiff suffered grievous bodily harm and extreme physical pain and suffering, all of which is in violation of his rights secured by the laws and Constitution of the United States, in particular the Fifth, Eighth and Fourteenth Amendments and 42 U.S.C. Section 1983.

24. Plaintiff was the victim of callous, and excessive physical assault and battery administered in a grossly disproportionate manner to whatever his acts may have been, and such excessive physical assault and battery constituted cruel and

unusual punishment, and deprived Plaintiff of his rights to due process of law under the laws and Constitution of the United States, in particular the Fifth, Eighth and Fourteenth Amendments. The assault and battery of Plaintiff was unwarranted, cruel, unusual, unjustifiable and excessive.

25. As a further result of the above-described acts, Plaintiff was deprived of the rights and immunities provided to him under the laws and Constitution of the United States, and of the Commonwealth of Pennsylvania, including, but not limited to, his rights under the Fourteenth Amendment to be secure in his person, to be free from punishment without due process of law and to have the equal protection of the laws.

26. The failure of Defendants Horn and Kyler to provide training and supervision regarding the use of excessive force and the limitations on the authority of fellow correctional officers amount to gross negligence, callous disregard for and deliberate indifference to the safety, security and civil rights of the citizens of the Commonwealth of Pennsylvania and the inmates residing within the Pennsylvania Department of Corrections facilities. Said gross negligence, deliberate indifference and negligent training and supervision was a proximate cause of the injuries sustained by Plaintiff.

27. Defendants Horn and Kyler, in their capacity as Secretary and Superintendent of the Pennsylvania Department of Corrections, are directly liable and responsible for the acts of Defendant Via, because they knowingly failed to enforce the laws secured by the Constitution of the United States, the laws of the

Commonwealth of Pennsylvania and the regulations of the Pennsylvania Department of Corrections pertaining to the use of force, the authority of deputy correctional officers, and they failed discipline prior actions of deputy correctional officer(s) regarding excessive use of force and failed to provide proper and adequate training or remedial training, thereby creating within the Pennsylvania Department of Corrections and its facilities an atmosphere of lawlessness in which Defendant Via employed excessive and illegal force and violence in the belief that such acts will be condoned and justified by his superiors and were the custom and policy of the Pennsylvania Department of Corrections.

28. Defendants Horn and Kyler were, or should have been, aware of these unlawful acts and practices prior to and at the time of the assault and battery of the Plaintiff, yet failed to take remedial or disciplinary measures regarding such acts, thus establishing the condonation of such illegal and unconstitutional acts as the custom and policy of the Pennsylvania Department of Corrections.

#### COUNT II

#### PLAINTIFF VS. DEFENDANT VIA (ASSAULT)

29. Plaintiff incorporates by reference paragraphs 1 through 28 hereof, as fully as if specifically set forth at length herein.

30. Defendant Via, individually and in his capacity as a correctional officer immediately prior to physically attacking Plaintiff, intended to and did, place Plaintiff in imminent fear of a harmful or offensive bodily contact, by verbally threatening

Plaintiff using profane and vulgar language, coupled with harmful bodily contact by violently slamming the cell door food panel on Plaintiff's hand, severing his finger.

COUNT III  
PLAINTIFF vs. DEFENDANT VIA (BATTERY)

31. Plaintiff incorporates by reference paragraphs 1 through 30 hereof, as fully as is specifically set forth at length herein.

32. Defendant Via individually and in his capacity as a correction officer engaged in conduct which intentionally caused Plaintiff to suffer harmful physical contact by violently slamming the cell door food panel on Plaintiff's hand, severing his finger.

33. As a result of the aforementioned battery by defendant Via, Plaintiff suffered the following, personal injuries, some or all of which may be permanent: traumatic amputation of the distal portion of his right ring finger, amputated past irreparable and unable to be attached to his hand, as well as protruding finger bone, and a fracture of the tuft on his hand.

34. As a further result of the foregoing actions of Defendant Via, Plaintiff has suffered and may in the future suffer, extreme physical pain and emotional and psychological suffering; has been obliged, and may in the future be obliged, to undergo and receive medical care and treatment in an effort to medically cure his injuries, has been hindered, and may in the future be hindered, in attending to his usual and daily duties, activities and occupations.

COUNT IV  
DELIBERATE INDIFFERENCE TO MEDICAL TREATMENT

35. Plaintiff incorporates by reference the averments contained in paragraphs 1 through 34, inclusive, as fully as though the same were herein set forth at length.

36. Defendants Horn and Kyler in their capacity as Secretary and Superintendent respectively, as well as Defendant Via, deliberately denied medical treatment to Plaintiff for approximately one hour, depriving Plaintiff of necessary medical treatment and attention.

37. Plaintiff's severed ring finger fell outside of his cell and laid on the prison floor for approximately one hour, and as a result greatly diminished his chances for reconstructive surgery to reconnect his finger with his hand.

38. Defendants deliberate indifference to Plaintiff's medical needs and treatment offend involving standards of decency and violated his rights which are secured by the laws and Constitution of the United States, in particular 42 U.S.C. Section 1983, the Fifth, Eighth, and Fourteenth Amendments and his rights under the Constitution of the Commonwealth of Pennsylvania.

39. Defendants Horn and Kyler and The Department of Corrections are vicariously liable, under the doctrine of respondeat superior, in that the medical authorities as well as fellow correctional officers, i.e., Defendant Via, deliberately and wantonly denied medical treatment and attention to Plaintiff, in that they owed 1) a legal duty or obligation to conform to a certain standard of conduct, i.e., to provide medical treatment

and attention as promptly as possible to avoid aggravating the injury, 2) they failed to conform to that standard, 3) there is a reasonably close casual connection between the conduct and the resulting injury; and 4) the plaintiff suffered an actual injury, and loss, i.e. his finger and nerve damage.

WHEREFORE, Plaintiff Clarence Franklin prays for judgment in his favor, and against Defendants, jointly and severally, as follows:

1. Compensatory damages in a sum of money in excess of \$150,000.00 dollars;
2. Punitive Damages;
3. Awarding Plaintiff the reasonable costs and expenses of this action;
4. Awarding reasonable attorney's fees; and
5. Such other further relief as may be just.

*FBS/K Esq.*

Fincourt B. Shelton, Esquire  
Attorney for Plaintiff I.D. 31598  
Mr. Clarence Franklin  
Inmate No. CU-0660

*Angelo L. Cameron Esq.*

Angelo L. Cameron, Esquire  
Attorney for Plaintiff I.D. 51058  
6 North Ninth Street, Suite 201  
Darby, PA 19023  
(610) 532-5550

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RETURN OF SERVICE OF PROCESS

PLAINTIFF Clarence Franklin COURT CASE NUMBER 1:CV-00-0238  
DEFENDANT Pa Dept of Corrections, et al TYPE OF PROCESS \_\_\_\_\_

SERVE Pennsylvania Dept of Corrections FILED  
(Name individual, company; corporation, etc. to be served) HARRISBURG, PA

AT 2520 Lisburn Rd, Camp Hill, Pa MAY 2 2000  
(Show Address)

SPECIAL INSTRUCTIONS OR OTHER INFORMATION REGARDING SERVICE \_\_\_\_\_  
MARY E. DUNDREA, CLERK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT:

\_\_\_\_\_ I have personally served individual, company or corporation above.  
\_\_\_\_\_ I have made service by mail as authorized by state law to the individual, company or corporation above. Appropriate state law authorizing this type of service is \_\_\_\_\_ . If certified mail was authorized, attach green cards to this form.

☒ I have legal evidence of service, described under Remarks and attached hereto.  
(Domiciliary service, Substituted service.)

\_\_\_\_\_ I am unable to serve the process. (See Remarks)

NAME OF PERSON SERVED: William Fairall

TITLE (IF ANY) OF PERSON SERVED: Counsel

ADDRESS WHERE SERVED: 2520 Lisburn Rd.  
Camp Hill, Pa

DATE AND TIME OF PERSONAL SERVICE: 2-9-00 10:30 AM

REMARKS: \_\_\_\_\_

2-11-00  
Date

Larry J Morris  
Signature of Process Server

RETURN THE ORIGINAL OF THIS FORM WITH THE ORIGINAL SUMMONS FORM TO:  
OFFICE OF THE CLERK OF COURT, U.S. DISTRICT COURT  
(Clerk's address in which the assigned judge is located. Refer to the  
Notice of Judicial Assignment form.)

PLAINTIFF'S  
EXHIBIT  
B-1



UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RETURN OF SERVICE OF PROCESS

PLAINTIFF Clarence Franklin COURT CASE NUMBER 1:CV-00-0238  
DEFENDANT Pa Dept of Corrections et al TYPE OF PROCESS \_\_\_\_\_

SERVE Martin F. Hoon  
(Name individual, company; corporation, etc. to be served)

AT 2520 Lishburn Rd, Camp Hill, Pa  
(Show Address)

FILED  
HARRISBURG, PA

MAR 28 2000

SPECIAL INSTRUCTIONS OR OTHER INFORMATION REGARDING SERVICE \_\_\_\_\_  
CLERK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT:

- ☐ I have personally served individual, company or corporation above.  
☐ I have made service by mail as authorized by state law to the individual, company or corporation above. Appropriate state law authorizing this type of service is \_\_\_\_\_ . If certified mail was authorized, attach green cards to this form.  
☒ I have legal evidence of service, described under Remarks and attached hereto.  
(Domiciliary service, Substituted service.)  
☐ I am unable to serve the process. (See Remarks)  
NAME OF PERSON SERVED: William Fairall  
TITLE (IF ANY) OF PERSON SERVED: Counsel  
ADDRESS WHERE SERVED: 2520 Lishburn Rd.  
Camp Hill, Pa  
DATE AND TIME OF PERSONAL SERVICE: 2-9-00 - 10:30 AM  
REMARKS: \_\_\_\_\_

2-11-00  
Date

Larry J. Morris  
Signature of Process Server

RETURN THE ORIGINAL OF THIS FORM WITH THE ORIGINAL SUMMONS FORM TO:  
OFFICE OF THE CLERK OF COURT, U.S. DISTRICT COURT  
(Clerk's address in which the assigned judge is located. Refer to the  
Notice of Judicial Assignment form.)

PLAINTIFF'S  
EXHIBIT  
B-2

02/24/2000 11:27 7172326772

PRIORITY ONE ATTY SE

3540 PAGE 02  
Clarence Franklin "File"

AQ 440 (Rev. 10/93) Summons in a Civil Action

RETURN OF SERVICE		
Service of the Summons and Complaint was made by me:	DATE <u>02/22/2000 (3:00 PM)</u>	
NAME OF SERVER <u>CURTIS EVERHART</u>	TITLE <u>CHIEF INVESTIGATOR</u>	
Check one box below to indicate appropriate method of service		
<input checked="" type="checkbox"/> Served personally upon the defendant. Place where served: <u>Kenneth D. KYLER</u> <u>SERVED AT STATE COLLEGE PA</u> <u>LOCATED IN SMITHFIELD TWP HUNTINGDON COUNTY</u>		
<input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: _____		
<input type="checkbox"/> Returned unexecuted: _____		
<input type="checkbox"/> Other (specify): _____		
FILED MAR 2 2000		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL
<div style="text-align: right;">             MAY E. DIANZ              PER _____           </div>		
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p>		
Executed on <u>2/24/00</u> Date <u>Betty K. Beckwith</u>	<u>Curtis Everhart</u> Signature of Server	
<div style="border: 1px solid black; padding: 5px; margin-top: 10px;">             NOTARIAL SEAL              BETTY K. BECKWITH, Notary Public              State College, PA Centre County              My Commission Expires July 30, 2001           </div>	<u>105-5 GERALD STREET</u> Address of Server <u>STATE COLLEGE, PA</u> <u>16801</u>	

1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

**PLAINTIFF'S  
EXHIBIT**  
B-3

AO 440 (Rev. 10/93) Summons in a Civil Action

1:CV-00-0238

## RETURN OF SERVICE

Service of the Summons and Complaint was made by me <sup>1</sup>	DATE
NAME OF SERVER	TITLE

Larry J. Morine

2/18/00 At 12:01 pm.

Process Server

Check one box below to indicate appropriate method of service

☒ Served personally upon the defendant. Place where served: Robert VIA. His correct name is Richard VIA

☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person with whom the summons and complaint were left: \_\_\_\_\_

☐ Returned unexecuted: \_\_\_\_\_

☐ Other (specify): Personally Served Richard VIA 2/18/00 At 12:01 pm.

## STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
--------	----------	-------

## DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

MARY E. D'AMORE, CLERK  
 Deputy Clerk

Executed on 16 Mar 2000  
 Date

Signature of Server

Larry J. Morine  
Larry J. Morine

PRIORITY ONE ATTORNEYS' MESSENGER SERVICE

99 South Cameron St. P.O. Box 454

Address of Server

Harrisburg, PA 17108-0454

PLAINTIFF'S  
 EXHIBIT

B-4

1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

3540-4-55

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**FILED**  
HARRISBURG, PA

APR 6 7 2000

**RETURN OF SERVICE OF PROCESS**

MAR 23 2000

PLAINTIFF \_\_\_\_\_ COURT CASE NUMBER \_\_\_\_\_ MARY E. SCHNEIDER, CLERK  
DEFENDANT \_\_\_\_\_ TYPE OF PROCESS \_\_\_\_\_

SERVE Attorney General Office  
(Name individual, company, corporation, etc. to be served)

AT 16th floor Strawberry Square Hbg, Pa. 17121  
(Show Address)

SPECIAL INSTRUCTIONS OR OTHER INFORMATION REGARDING SERVICE \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY THAT:

\_\_\_\_\_ I have personally served individual, company or corporation above.  
\_\_\_\_\_ I have made service by mail as authorized by state law to the individual, company or corporation above. Appropriate state law authorizing this type of service is \_\_\_\_\_ . If certified mail was authorized, attach green cards to this form.

X I have legal evidence of service, described under Remarks and attached hereto.  
(Domiciliary service, Substituted service.)

\_\_\_\_\_ I am unable to serve the process. (See Remarks)

NAME OF PERSON SERVED: Melisa Cooper

TITLE (IF ANY) OF PERSON SERVED: Executive Sec. (Authorized to Accept)

ADDRESS WHERE SERVED: 16th floor Strawberry Square

DATE AND TIME OF PERSONAL SERVICE: Hbg, Pa. 17121  
March 23, 2000 @ 12:30 PM

REMARKS: \_\_\_\_\_

3-23-00

Date

Nathaniel P. Rafferty  
Signature of Process Server  
Nathaniel P. Rafferty

RETURN THE ORIGINAL OF THIS FORM WITH THE ORIGINAL SUMMONS FORM TO:  
OFFICE OF THE CLERK OF COURT, U.S. DISTRICT COURT  
(Clerk's address in which the assigned judge is located. Refer to the  
Notice of Judicial Assignment form.)

**PLAINTIFF'S  
EXHIBIT  
B-5**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CLARENCE FRANKLIN  
INMATE NO. CU-0660  
SCI - CAMP HILL  
P.O. BOX 200  
CAMP HILL, PA. 17001-0200  
PLAINTIFF

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MARTIN F. HORN, IN HIS CAPACITY  
AS SECRETARY OF THE  
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CAMP HILL, PA. 17001-8837  
DEFENDANT  
JOINTLY AND SEVERALLY

**CIVIL ACTION NO. 1:CV 00-0238**

**PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF  
JUDGMENT BY DEFAULT**

Pursuant to Federal Rule of Civil Procedure 55 (b)(2), entitled "Default Judgment by the Court"; "In all other cases the party entitled to a judgment by default shall apply to the court therefore.... If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearings or order such references as it deems necessary and proper and shall accord a right of trial by jury to the parties when and as required by any statute of the United States."

  
\_\_\_\_\_  
Angelo L. Cameron, Esquire  
FINCOURT B. SHELTON & ASSOC. P.C.  
6 North 9<sup>th</sup> Street, Suite 201  
Darby, Pennsylvania 19023  
(610) 532-5550

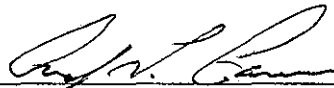
Date: April 27, 2000

**CERTIFICATE OF SERVICE**

I, Angelo L. Cameron, Esquire, hereby depose and say that on this 27<sup>TH</sup> Day of April, 2000, I caused a true and correct copy of Plaintiff's Application for Judgment By Default to be served upon the Clerk of Courts for the United States District Court for the Middle District of Pennsylvania via United States First Class Mail, postage prepaid as follows:

Ms. Mary E. D'Andrea, Clerk of Courts,  
United States District Court for the  
Middle District of Pennsylvania,  
United States District Courthouse  
228 Walnut Street,  
P.O. Box 983,  
Harrisburg, Pennsylvania 17108

This statement is made pursuant to 18 Pa. C.S.A. Sec 4904 relative to unsworn falsification to authorities.



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Attorney for Plaintiff